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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1765/2024
BRAHAM KUMAR TANWARPetitioner
Through:

versus

THE STATERespondent
Through: Mr. Hemant Mehla, APP for the State
with SI Sudhir Singh, PS Mandir
Marg.
Mr. Sunny Kashyap, Adv. for
respondent.

+ CRL.REV.P. 735/2024
HRISHIKESH KAUSHIKPetitioner
Through:

versus

STATE OF NCT OF DELHI AND OTHERSRespondents
Through: Mr. Hemant Mehla, APP for the State
with SI Sudhir Singh, PS Mandir
Marg.
Mr. Sunny Kashyap, Adv. for
respondent.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **30.09.2024**

1. These petitions had been filed against cancelation of bail directed by the ASJ by order dated 13th February, 2024.
2. On 12th July, 2024, this Court passed the following order:
“This petition under Section 482 of the Code of Criminal Procedure, 1973, has been filed on behalf of petitioners assailing the impugned



order dated 13.02.2024 passed by ASJ on an application filed by complainant seeking cancellation of bail in FIR No. 148/2020 registered at P.S. Mandir Marg for the offences punishable under Sections 420/468/471/120B IPC.

Petitioners, namely, Braham Kumar Tanwar and Hrishikesh Kaushik have been granted bail vide order dated 01.08.2023. It is apparent from the bail order that it was premised upon settlement which has been agreed between complainant and accused. Settlement is contained in the statements that were made in court, where no objections were given to the bail while being granted, in view of the settlement amount tendered through demand draft/cheques by the said accused persons. Copy of the said statement is extracted as under:

Application no.17/24; FIR no.148/20; PS,Mandir Marg;
State V. Hrishikesh Kaushik & Anr.

11. It is also necessary to consider the statement of the complainant/victim recorded by the Ld. Trial Court which reads as under:

"Statement of one of the complainants Sh. Vijay Kumar Jha, S/o Sh. Jagdish Jha, R/o 442/D, Sector-2, Type-III, Gole Market, New Delhi.

ON SA

I am one of the complainants in the present case. Today, I have received DD bearing no. 288829 drawn on Canara Bank, dated 25.07.2022 for the sum of Rs. 1,50,000/- and three Post Dated Cheques dated 20.10.2022, 20.11.2022 and 20.02.2023 amounting to a total of Rs. 3,50,000/-. The cheques have been drawn by the wife of the accused Hrishikesh Kaushik. I am satisfied by said payment and tendering of cheques subject to the honor of aforesaid cheques. I have no objection, if accused Braham Kumar Tanwar is granted bail in the present matter. This is my true and correct statement being voluntarily".

"Statement of one of the complainants Ms. Geeta, W/o Sh. Dinesh Kumar, R/o 45/3A, Gole Market, DIZ Area, New Delhi.

ON SA

I am one of the complainants in the present case. Today, I have received DD bearing no. 547062 drawn on IDFC First Bank, dated 25.07.2022 for the sum of Rs. 2,50,000/- and five Post Dated Cheques dated 20.09.2022, 20.11.2022, 20.12.2022, 20.01.2023 and 20.02.2022 amounting to a total of Rs. 7,90,000/-. The cheques have been drawn by the wife of the accused Hrishikesh Kaushik. I am satisfied by said payment and tendering of cheques subject to the honor of aforesaid cheques. I have no objection, if accused Hrishikesh Kaushik is granted bail in the present matter. This is my true and correct statement being voluntarily".



Bail order was further granted on furnishing personal bond with the sum of Rs.50,000/- with one surety of the like amount and another depositing Rs.1,50,000/- in the name of the court, which was deposited in Court through demand draft.

It transpires that as regards the settlement amount while demand draft for Rs.1,50,000/- and Rs.2,50,000/- was presented for encashment, post-dated cheques dated 20.10.2022, 20.11.2022 and 20.02.2023 amounting to a total of Rs.3,50,000/- and another set of five post-dated cheques dated 20.09.2022, 20.11.2022, 20.12.2022, 20.01.2023 and 20.02.2022 amounting to Rs.7,90,000/- drawn by the wife of the accused Hrishikesh Kaushik were dishonoured.

Plea of learned counsel for petitioners that relies on the principles of cancellation of bail have been perused, however, the issue is slightly different in this matter.”

3. Subsequently, on 27th August, 2024, counsel for the petitioner Braham Kumar Tanwar stated that there was a bereavement in his family and he was unable to be present. Hrishikesh Kaushik stated that he had fever and entered appearance through VC. It was again noted that no further adjournments will be granted and directions to be complied with.

4. On 20th September, 2024, Braham Kumar Tanwar was present and asked for one more week to be granted to him considering that there was a bereavement in his family and this was given as an absolute last opportunity. Hrishikesh Kaushik did not present himself. It was noted that one final opportunity was given to the accused and it was made clear that the petitions will be dismissed in the event or even non-appearance of the accused/petitioners on the next date or non-compliance of the undertakings.



Both accused were to present personally before this Court.

5. Today, someone appears on behalf of Braham Kumar Tanwar and states that he has sent his medical certificate. No counsel is present. Hrishikesh Kaushik does not appear even today. It is quite clear that the attempt is to subvert the orders of this Court and continue to secure the benefit of bail which was granted by order dated 04th August, 2022 by the Trial Court basis the settlement arrived at between the parties, which has never been complied with.

6. Considering bail was granted in context of a settlement, which continuous to be dishonoured, despite number of opportunities given to the accused, this Court is not inclined to grant any further benevolence to the accused. The conduct of the accused is clearly dispositive of an brazen attempt to somehow continue the benefit of bail, having secured it on a false assertion of settlement.

7. The impugned order of 13th February, 2024 cancelling the bail granted to Braham Kumar Tanwar and Hrishikesh Kaushik by order dated 04th August, 2022 is accordingly affirmed.

8. Both the accused are directed to surrender before the Trial Court within two days and shall be taken into custody.

9. Steps shall be taken by the prosecution before the Trial Court in this regard.

10. Accordingly, petitions are disposed of with the aforesaid directions.

11. Order be uploaded on the website of this Court.

ANISH DAYAL, J

SEPTEMBER 30, 2024/MK